

# FORM 1041ME - GENERAL INSTRUCTIONS

## WHO MUST FILE

The fiduciary or trustee of a resident or nonresident estate or trust must file Form 1041ME if the estate or trust has any:

- Maine tax additions (see Maine Schedule A, Section 1);
- Maine taxable income; or
- Gross income greater than \$10,000 for the taxable year.

Gross income equals the amount on federal Form 1041, line 9. The Maine-source income of a nonresident estate or trust is determined on Schedule NR. A resident estate or trust with nonresident or "safe harbor" resident beneficiaries must also complete Schedule NR. See the instructions for Schedule NR. *See page 2 of the Maine individual income tax booklet for a description of nonresident and "Safe Harbor" resident statuses.*

**NOTE:** *Grantor Trusts and all Charitable Remainder Trusts are not required to file a Maine return.*

## FEDERAL RETURN REQUIRED

- **A completed copy of federal Form 1041 must accompany the Maine nonresident return.**
- **If the federal income (federal Form 1041, line 9) is greater than \$150,000, you must include the entire federal Form 1041 with Form 1041ME. For other returns that have a capital gain or loss, attach pages 1 and 2 and Schedule D of the federal return.**

## DEFINITION OF RESIDENT AND NONRESIDENT ESTATE OR TRUST

Domicile of the decedent, grantor or settlor determines residency. Situs of the trust instrument, the property held in trust, the location of the trustees, the adoption of the laws of any state in the governing instrument are irrelevant for the purpose of determining residency.

A resident estate is the estate of a decedent who, at death, was domiciled in Maine. A resident testamentary trust is a trust which is created by the last will and testament of a decedent who, at death, was domiciled in Maine. Any estate or testamentary trust created by the will of a decedent who was not domiciled in the State of Maine at death shall be considered a nonresident estate or nonresident testamentary trust.

A resident irrevocable inter vivos trust is a trust which was created by or consisted of property of a person domiciled in Maine at the time it was funded. An irrevocable inter vivos trust will be classified as a nonresident trust if the creator of the trust is not domiciled in Maine when funded.

If the settlor of a revocable inter vivos trust is domiciled in Maine when the trust is created, the trust is considered a resident inter vivos trust until the settlor becomes domiciled in another state. A nonresident revocable inter vivos trust will become a resident trust if and when the creator of the trust becomes domiciled in Maine.

## QUALIFIED FUNERAL TRUST (QFT)

If you meet the criteria of a qualified funeral trust at the federal level, you can file using the same status for Maine purposes. Check the box for "Qualified Funeral Trust" on page 1 of Form 1041ME and enter the required federal QFT taxpayer identification number (EIN) in the space provided (in the upper right corner of the return). For a Maine composite return, attach a schedule listing for each beneficiary: Maine taxable income, Maine income tax, name, social security number and whether or not the beneficiary is a resident of Maine. Since each beneficiary is considered a separate trust, Maine income tax must be calculated separately for each beneficiary. The total tax for all beneficiaries is then entered on line 4 of Form 1041ME.

## BANKRUPTCY

For bankruptcy estates (chapter 7 or 11), use Form 1041ME as a transmittal for Form 1040ME. In the top margin of Form 1040ME,

write "attachment to Form 1041ME. DO NOT DETACH." Complete the name, address, and identification information at the top of Form 1041ME. Then complete Form 1040ME through line 23. Enter the amount from Form 1040ME, line 23 on line 4 of Form 1041ME, then follow the instructions for completing lines 5 - 10 on Form 1041ME.

## WHEN TO FILE

The due date is April 17, 2012. For fiscal year filers, the due date is the 15th day of the fourth month following the close of the taxable year.

## EXTENSIONS

A State of Maine extension request form is not required. If you are unable to file your return by the original due date of the return, Maine allows an automatic extension equal to any federal extension or 6 months, whichever is the longer period of time. **Caution: An extension to file your Maine return is not an extension for payment of tax.** If you owe money, you must pay at least 90% of that amount by the original due date for filing your return in order to avoid the penalty for late payment of tax. Any remaining tax must be paid when the return is filed by the extended due date in order to avoid the failure-to-pay penalty. Interest is charged on any tax paid after the original due date of the return.

Remit your extension payment with the payment voucher by the original due date for filing your Maine return to: Maine Revenue Services, P.O. Box 9101, Augusta, ME 04332-9101.

## INTEREST AND PENALTIES

Interest will be added each month on overdue tax until the entire tax amount is paid. For calendar year 2012, the interest rate is 7% per year, compounded monthly. In addition to interest, a penalty is assessed for late filing. A separate penalty is assessed for the late payment of tax. The penalty for late filing is \$25 or 10% of the tax due, whichever is greater. If a tax return is not filed upon demand, the penalty is the greater of \$25 or 25% of the tax due. The penalty for late payment of the tax is 1% per month up to a maximum of 25%. Both penalties are assessed when the return is filed late and the tax is paid late. The law also provides for penalties for the underpayment of estimated tax, for preparing or filing a fraudulent income tax return, and for the understatement of income.

## WHOLE DOLLAR AMOUNTS

Show money items as whole dollar amounts. Round down to the next lower dollar any amount less than 50 cents. Round up to the next higher dollar any amount 50 cents or more.

## ACCOUNTING PERIODS AND METHODS

The accounting period and the method of accounting used are the same as those used for federal tax purposes (for more information, see instructions for federal Form 1041). If the taxable year or method of accounting is changed for federal income tax purposes, the change also applies to the Maine return.

## REPORT OF CHANGE IN MAINE TAXABLE INCOME

If the amount of the federal taxable income is changed or corrected by the Internal Revenue Service, or if the Maine tax liability changes for any other reason, the fiduciary must report the changes on an amended Maine return within 180 days after the final determination of the change. Any fiduciary filing an amended federal income tax return must also file an amended Maine return within 180 days. Failure to comply with these requirements could result in failure-to-file and failure-to-pay penalties. To file an amended return, use Form 1041ME for the year(s) you are amending and check the "amended return" box at the top of the form. **Attach a statement explaining the changes if applicable and a copy of your federal amended return or Internal Revenue agent's report to the Maine amended return.**

## PAYMENT OF ESTIMATED TAX

Estates and trusts subject to Maine income tax are required to make installment payments of estimated tax if the estimated tax liability is \$1,000 or more or an unusual event has occurred. Generally, payments must be made in four equal installments due April 15, June 15, September 15, and January 15. Payments can be made electronically using Maine EZ Pay (no forms required) at [www.maine.gov/revenue](http://www.maine.gov/revenue) or download Form 1041ES-ME (and the instructions for Form 1040ES-ME) at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) or call (207) 624-7894 to order the forms.

**Note:** Maine's estate/trust estimated tax filing requirements differ from federal requirements in that Maine 1041 estimate payments must be made after the first year filing. 36 MRSA § 5228.

## THIRD PARTY DESIGNEE

You may designate a third party to discuss your return with Maine Revenue Services by checking the "Yes" box on page 1 of Form 1041ME. Also enter the person's name, phone number, and any 5-digit number the person chooses as their personal identification number (PIN). Checking the "Yes" box will enable Maine Revenue Services to call the person you have chosen if there are any questions or if additional information is needed to process your return.

## SIGNATURE

Any person who prepares a taxpayer's return for compensation must also sign and enter his or her social security number or PTIN as assigned by the IRS. If the return is prepared by a firm or corporation, the federal identification number of the firm must also be listed.

## TAXPAYER ASSISTANCE and FORMS

Visit [www.maine.gov/revenue](http://www.maine.gov/revenue) to learn the status of your refund, obtain the latest tax updates, frequently asked questions (FAQ), electronic tax assistance, download Maine tax forms and instructions, pay your tax or email tax-related questions.

**To order forms:** Download forms from the Maine Revenue Services web site at [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) or call (207) 624-7894 - Every day 24 Hours.

**Assistance to help you with your tax questions:** (207) 626-8480 - Weekdays 8:00 a.m. - 5:00 p.m. or send an email to [estate\\_tax@maine.gov](mailto:estate_tax@maine.gov) or write to Maine Revenue Services, PO Box 1060, Augusta, ME 04332-1060.

**NexTalk (hearing-impaired only):** (888) 577-6690 Weekdays 8:00 a.m. - 4:30 p.m.

**Collection problems and payment plans:** (207) 621-4300

- Weekdays 8:00 a.m. - 5:00 p.m. Call this number if you have a tax balance due currently being collected by Maine Revenue Services that you would like to resolve.

**Tax violations hot line:** (207) 624-9600 Call this number or send an email to [compliance.tax@maine.gov](mailto:compliance.tax@maine.gov) to report possible tax violations including failure to file tax returns, failure to report all income and failure to register for tax filing.

**Recent tax law changes:** [www.maine.gov/revenue/rules/legischange10.htm](http://www.maine.gov/revenue/rules/legischange10.htm).

## SPECIFIC INSTRUCTIONS

(Please show negative income amounts on your form by placing a minus sign in the box to the left of the amount.)

*Nonresident estates and trusts and resident estates and trusts with nonresident or "safe harbor" resident beneficiaries, see the instructions for Schedule NR).*

**Line 1. Federal Taxable Income - resident estates and trusts only.** Enter the amount of taxable income shown on federal Form 1041, the amount of unrelated business taxable income from federal Form 990-T and the taxable income of the S corporation portion of Electing Small Business Trusts (ESBT) (if applicable).

**Line 2. Fiduciary Adjustment - resident estates and trusts only.** The fiduciary adjustment is determined on Schedule 1 and allocated in accordance with Schedule 2 on page 2 of Form 1041ME. If any of the income adjustments apply, complete these schedules before proceeding with page 1 of Form 1041ME. Detailed instructions for the schedules follow.

**Line 4. Maine Income Tax.** Compute the tax on the amount shown on line 3 by using the following table:

### TAX TABLE

If the taxable income is:	The tax is:
Less than \$5,000	2.0% of the taxable income
\$5,000 but less than \$9,950	\$100 plus 4.5% of excess over \$5,000
\$9,950 but less than \$19,950	\$323 plus 7.0% of excess over \$9,950
\$19,950 or more	\$1,023 plus 8.5% of excess over \$19,950

This tax rate schedule is effective for tax years beginning in 2011.

**Line 7a. Maine Income Tax Withheld.** Enter the total amount of Maine income tax withheld. Enclose (do not staple or tape) supporting W-2 and 1099 forms. Only send 1099 forms if there is State of Maine income tax withheld shown on them, unless otherwise required to send as supporting documentation for another schedule or worksheet. Legible photocopies of your W-2 forms and 1099 forms on 8 1/2 by 11 inch paper are preferred. Also include on this line the amount from the worksheet for Rehabilitation of Historic Properties Tax Credit, line 6.

**Line 7b. 2011 Estimated Tax Payments, 2010 Overpayment Carried Forward and Extension Payments.** Enter the total amount of estimated taxes actually paid for 2011 and any 2010 credit carried forward. See general instructions above for further explanation of estimated payments. Also enter any extension payment made for this return.

The Real Estate Withholding (REW) payments made on behalf of a Trust on the sale of Maine property where the gain or loss is distributed among beneficiaries must be split amount beneficiaries based on each beneficiary's portion of the Distributable Net Income. Each beneficiary must file a Maine individual income tax return and apply their portion of the REW payment against their individual income tax liability on the Maine return.

**Nonresident estates or trusts** enter on this line amounts withheld in 2011 on the sale of real estate in Maine. Enclose a copy of Form REW-1 or Form 1099ME to support your entry.

**Line 8. Tax Balance Due.** Any balance of tax liability should be paid in full with the return. Remit your payment using Maine EZ Pay at [www.maine.gov/revenue](http://www.maine.gov/revenue) or mail a check payable to Treasurer, State of Maine with the return. Please write the federal estate or trust name, address and phone number on the check.

If the amount owed (line 6 minus line 7a) is \$1,000 or more, complete Form 2210ME and attach it to the return. If Form 2210ME shows a penalty amount due, enter it on line 8b and submit payment for the entire balance.

**Line 10a. Amount of Line 9 You Want Credited.** Use this block only if electing to have all or a portion of the overpayment on line 9 credited to next year's estimated tax.

**Amount of refund directly deposited to a checking account.** You may have the refund directly deposited into a checking account if it is \$10,000 or less. To comply with banking rules, check the box to the left of line 10d if the refund is going to an account outside the United States. If the box is checked, we will mail a paper check.

**On line 10c,** enter the 9-digit routing transit number (RTN). The RTN must begin with 01 through 12 or 21 through 32. If it does not, the direct deposit will be rejected and a refund check will be sent instead. **ENTRIES MUST BE ACCURATE.** If unsure what the RTN is, contact the financial institution.

**On line 10d,** enter the checking account number. The checking account number can be up to 17 digits long (both numbers and letters). Omit hyphens, spaces and special symbols. Enter the number from left to right and leave any unused spaces blank.

**SCHEDULE 1 – FIDUCIARY ADJUSTMENT** (Enter combined amounts for both the beneficiaries and the estate or trust).

For more information on Maine additions to and subtractions from federal taxable income, visit [www.maine.gov/revenue](http://www.maine.gov/revenue).

**Line 1. ADDITIONS to federal taxable income.** Also include the taxpayer's distributive share of addition modification items from trusts, partnerships and S Corporations where applicable.

**Line 1a. Enter income from municipal and state bonds, other than Maine,** that is not included in federal taxable income. For example, enter interest from City of New York but not Portland, Maine.

**Line 1b. Enter any amount of federal net operating loss carry forward** included in federal taxable income. Enter any amount of federal NOL carried back to this year (AMENDED returns only). For more information and examples, go to [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) (select *Income Tax Guidance Documents*).

**Line 1c. Enter 2011 Maine Public Employees Retirement System contributions ("MePERS").** These contributions are tax deferred for federal tax, but are subject to Maine income tax.

**Line 1d. Enter the amount of federal domestic production activities deduction** used to reduce federal taxable income.

**Line 1e. The bonus depreciation add-back** is an addition modification equal to the net increase in depreciation resulting from bonus depreciation claimed on the federal return. To calculate this addition modification, the amount of the add-back on line 1f must be subtracted from the basis of property placed in service in 2011. Then MACRS depreciation must be calculated on the remaining property basis. The amount entered on this line equals the amount that the federal depreciation claimed, less the amount on line 1f, exceeds the recalculated MACRS depreciation. If the recalculated MACRS depreciation is greater than the adjusted federal depreciation, no addition modification is required on this line. Enclose a copy of the federal Form 4562, along with the add-back calculation, with the return. For more information and examples, go to [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) (select *Income Tax Guidance Documents*).

**Line 1f. Maine capital investment credit bonus depreciation add-back.** Enter the bonus depreciation claimed on the federal return relating to property for which the Maine Capital Investment Credit is claimed.

**Line 1g. Other.** Enter on this line • the amount of loss, deductions, and other expenses of a financial institution subject to Maine franchise tax that are included in federal taxable income due to an ownership interest in the financial institution that is a partnership, S corporation, or entity disregarded as separate from its owner • income taxes imposed by Maine or other states, mortgage insurance premiums and interest or expenses incurred in the production of income exempt from Maine taxation deducted in arriving at federal taxable income • amounts deducted as a business or other expense for federal tax purposes that are included in the credit base for the high-technology investment tax credit and the forest management planning credit • the amount deducted at the federal level for qualified tuition and other educational expenses under IRC § 222 • qualified payments and tax benefits from states or municipalities to firefighters and emergency medical responders that are excluded from federal taxable income pursuant to Code section 139B • the administrative expense deduction claimed for federal fiduciary income tax purposes that is also used to determine the taxable estate in calculating the Maine estate tax • the estate's/trust's share of the fiduciary adjustment of another estate/trust – **additions only** (36 MRSA §§ 5122(3) and 5164). *List the source of each amount claimed in the space provided. Attach supporting documentation when claiming an amount on this line.*

**Line 2. SUBTRACTIONS from federal taxable income.** Also include the taxpayer's distributive share of subtraction modification items from trusts, partnerships and S Corporations where applicable.

**Line 2a. If included in federal taxable income, enter income from direct obligations of the United States Government,** such as Series EE and Series HH Savings bonds and U.S. Treasury bills and notes.

**Line 2b. If included in federal taxable income, social security benefits** issued by the U.S. Government and **railroad retirement benefits (tier 1 and tier 2)** issued by the U.S. Railroad Retirement

Board. Also, unemployment and sick benefits issued by the Railroad Retirement Board are not taxable to Maine. However, benefits issued by the Canadian Railroad Retirement Board are taxable to Maine.

**Line 2c. If included in federal taxable income, enter interest from Maine municipal general obligation and private activity bonds and bonds issued by a Maine airport authority.** You must include supporting documentation if greater than \$25,000.

**Line 2d. Use this line only if the person retired after 1988 and received retirement benefits from the Maine Public Employees Retirement System ("MePERS") in 2011.** To calculate the amount for this line, subtract the amount in box 12 from the amount in box 2a on Form 1099-R issued by MePERS. Also enter on this line MePERS rollover amounts previously taxed by the state, whether or not included in federal taxable income.

**Line 2e. Enter up to \$250, per beneficiary, of contributions made to a Maine or non-Maine qualified tuition program ("529 college savings plan")** only if the income is not more than \$100,000.

**Line 2f. Bonus depreciation/section 179 expense recapture.** Amounts required to be added to income under 36 MRSA §§ 5122(1)(N), 5122(1)(AA) or 5200-A(1)(N) may be recaptured over the life of the applicable asset. For more information and examples, visit [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) (select *Income Tax Guidance Documents*).

**Line 2g. Other Subtractions.** Enter **ONLY** items specifically listed. **NOTE:** *Maine net operating loss carryover deductions are not allowed for tax years beginning in 2009, 2010 and 2011. For more information on Maine's treatment of NOLs, go to [www.maine.gov/revenue/forms](http://www.maine.gov/revenue/forms) (select *Income Tax Guidance Documents*).*

List the source of each amount claimed in the space provided and attach supporting documentation when claiming an amount on this line. Enter on this line • military compensation received by a nonresident servicemember • military annuity payments made to a survivor of a deceased member of the military as a result of service in the active or reserve components of the U.S. armed services under a survivor benefit plan or reserve component survivor benefit plan in accordance with 10 USC, Chapter 73 • discharge of indebtedness amounts included in federal adjusted gross income deferred for federal tax purposes but not Maine tax purposes during 2009 or 2010 • recovery amounts included in federal taxable income related to items previously deducted on your federal return but not on your Maine return in an earlier year, such as real estate taxes • the amount of loan payments made by employers included in federal taxable income related to individuals qualified for the opportunity Maine credit • the amount of the reduction in the salaries and wages deduction directly related to the federal Work Opportunity Credit or the federal Empowerment Zone Credit. These amounts are reported on federal Form 5884, line 2 or federal Form 8844, line 2 (owners of pass-through entities, enter the share of the amount from line 3 of these forms to the extent not included on line 2). Note: do not enter wage amounts from Form 8844 related to the federal Renewal Community Credit • amounts received from a Holocaust victims settlement that are included in federal income (36 MRSA § 5122(2)(O)) • account proceeds from a Family Development Account administered by FAME (36 MRSA § 5216-C) • state income tax refunds • earnings from fishing operations contributed to a capital construction fund • income from investments in the Northern Maine Transmission Corporation • the estate's/trust's share of a fiduciary adjustment – **subtractions only** (36 MRSA §§ 5122(3) and 5164) • interest income and capital gains from the sale of bonds issued relative to the Maine Waste Management & Recycling Program to the extent included in federal taxable income • all items of income, gain, interest, dividends, royalties, and other items of income of a financial institution subject to the Maine franchise tax that are included in federal taxable income due to an ownership interest in the financial institution that is a partnership, S corporation, or entity disregarded as separate from its owner • up to \$6,000 in pension income pursuant to 36 MRSA § 5122(2)(M) • the amount of military retirement benefits, not otherwise deducted,



received by certain licensed dentists who practice an average of 20 hours or more per week in Maine and accept patients who receive MaineCare benefits • up to \$750 of property tax benefits provided by municipalities to senior citizens pursuant to 36 MRSA § 6232(1-A) • expenses incurred in the production of income subject to Maine tax, but exempt from federal tax (an example is expenses related to the production of non-Maine municipal bond interest) • long-term care insurance premiums paid by the estate or trust that have not been claimed as an itemized deduction on the decedent's federal income tax return or as a federal adjustment by self-employed individuals • the total of capital gains and ordinary income resulting from depreciation recapture pursuant to Code sections 1245 and 1250 realized on the sale of multifamily affordable housing property certified by the Maine State Housing Authority. A copy of the MSHA certificate must be attached to the return.

**Line 3. Net Fiduciary Adjustment.** The shares of the beneficiaries and of the estate/trust in the Maine fiduciary adjustment are in proportion to their respective shares of federal distributable net income of the estate or trust. **Resident estates and trusts:** Multiply line 3 by the percentage on Schedule 2, Column 3, line f. Enter the result on page 1 of Form 1041ME, line 2. **Nonresident estates and trusts:** Multiply line 3 by Schedule 2, Column 3, line f. Enter the result on Form 1041ME, Schedule NR, line 7, Column A.

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## SCHEDULE 2 – ALLOCATION OF FEDERAL INCOME AND MAINE-SOURCE INCOME

The purpose of this schedule is to show the distribution of federal distributable net income (DNI) and Maine-source income of nonresident and “safe harbor” resident beneficiaries. *See page 2 of the Maine individual income tax booklet for a description of nonresident and “Safe Harbor” resident statuses.* **ALL estates/trusts must complete Schedule 2.**

**Column 1.** Enter the name of each beneficiary of the estate or trust, including nonresident and “safe harbor” resident beneficiaries. Enter the estate/trust name on line f. If there are more than 5 beneficiaries, use a separate sheet of paper.

**Column 2.** Enter the respective shares of federal distributable net income of each beneficiary and of the estate/trust on the appropriate lines.

**Column 3.** Determine the percentage share for each beneficiary and for the estate/trust based on the amounts in column 2.

**Columns 4 and 5.** Enter the state of domicile and the social security number/EIN of each beneficiary of the estate or trust, including nonresident and “safe harbor” resident beneficiaries.

**Column 6. Nonresident estates or trusts** enter on line g, column 6, the amount from Schedule NR, line 4, column B. For lines a through e, allocate line g to the nonresident and “safe harbor” resident

beneficiaries in proportion to their respective shares of federal distributable net income. The income, as allocated, has the same character as it does for federal income tax purposes.

**Resident estates or trusts with nonresident and “Safe Harbor” resident beneficiaries** must complete a pro forma Schedule NR (as if the estate or trust were a nonresident estate or trust) in order to complete Column 6 of Schedule 2. Enter on Schedule 2, line g, Column 6 the amount from Schedule NR, line 4, Column B. Follow the instructions for completing Schedule NR. Attach a copy of the pro forma Schedule NR to the Maine income tax return for the estate or trust. Do not complete column 6 for resident beneficiaries (except “Safe Harbor” resident beneficiaries).

If the estate or trust has no federal distributable net income, the share of each beneficiary in the Maine-source income is in proportion to the beneficiary's share of the estate or trust income for the taxable year, including that which is required by local law of the governing instrument to be distributed in such year. Any balance of the Maine-source income not allocable to beneficiaries shall be allocated to the estate or trust. If the shares in the Maine-source income are allocated in accordance with this paragraph, show the allocation in a schedule attached to the return.

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## SCHEDULE 3 – CREDIT FOR INCOME TAX PAID TO ANOTHER JURISDICTION

Resident estates and trusts may claim a credit against Maine income tax for income tax paid to another jurisdiction if all the following conditions are met:

- (1) The other jurisdiction is another state, a political subdivision thereof, the District of Columbia, Canadian Province or any political subdivision of a foreign country that is like a state of the United States.
- (2) The tax paid to the other jurisdiction is directly related to the income received during the tax year covered by this return. Tax payments made to other taxing jurisdictions for prior year tax liabilities cannot be considered when computing this credit.

- (3) The income taxed by the other jurisdiction is derived from sources in that jurisdiction determined in the same manner as Maine-source income is determined for nonresidents of Maine under 36 MRSA § 5142.

Line 4b is the income tax assessed by the other jurisdiction minus any tax credits (except withholding and estimated tax payments).

Complete a separate Schedule 3 for each jurisdiction to which taxes are paid and for which a credit is being claimed. Enclose a copy of each Schedule 3 completed. Add the credits together and enter the total on Schedule A, line 4. **Attach a copy of the income tax return filed with the other jurisdiction.**